COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

42.

MA 1603/2024 in OA 1384/2019

Smt Suman Jaggi W/o Late Ex AC 1 Kewal Nain ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. Vijendra Singh Mahndiyan, Advocate

With
43.

RA 16/2024 with MA 1397/2024 with OA 1384/2019

UOI & Ors ..... Applicant
VERSUS
Smt Suman Jaggi W/o Late Ex AC 1 Kewal Nain. ..... Respondents

For Applicant : Mr. Vijendra Singh Mahndiyan, Advocate
For Respondents : Mr. Ved Prakash, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
23.08.2024

RA 16/2024

RA 16/2024 has been filed by the Union of India i.e respondents to the OA 1384/2019 seeking to the effect with averments made in Para-7 thereof to the effect:-

*"7. Reliance was also placed on behalf of the applicant on the order dated 06.12.2018 of the AFT, PB, New Delhi in OA 1051/2016 in the case of Ex Sepoy Bhagat Singh vs. UOI & Ors. in which case the Armed Force Personnel who had been discharged from service*

*on completion of service of 02 years and 05 days of service and had been invalided out was entitled to the grant of invalid pension. In view of the verdict of the Hon'ble Supreme Court in UOI & Ors. vs. Ex Gnr Sinchetty Satyanarayan & 42 others in SLP No. 20868 of 2009 decided on 23.02.2012 wherein it had been observed to the effect :-*

> **"the issue regarding grant of service element to those invalided out prior to 1973 with less than minimum qualifying service for pension as prescribed from time to time, has been considered in the Ministry and with the approval of Hon'ble RM it has been decided to grant the benefit of "Service Element" to all pre 1973 cases w.e.f. 01.01.1973"**

2. Vide order dated 06.12.2023 in OA 1384/2019 vide paragraphs 20, 21 and 22 thereof, it was directed to the effect:-

> ***"20. In these circumstances of the instant case as it is apparent that the applicant's late husband had been invalided out from service in terms of the Govt of India letter no. 12(28)/2010/D-(Pen-Pol) dated 10.02.2014, the applicant's late husband was entitled to the grant of invalid pension, even though he had not made a prayer for the same during his life time, in view of the verdict of this Tribunal in the case of Smt Shama Kaur (Supra) in the Larger Bench in OA 1238/2016 and in the case of Hon'ble Supreme Court in S K Mastan Bee vs. The General Manager, South Central Railway & Anr. in Civil Appeal No. 8089/2002.***
>
> ***21. Thus the prayer made by the applicant seeking the grant of the arrears of the invalid pension from the date of the applicant's late husband invalidment till the date of his demise on 09.02.2019 is allowed.***
>
> ***22. The respondents are directed to calculate, sanction and issue the necessary Corrigendum PPO to the applicant within three months from the date of receipt of the copy of this order and in the event of default, the applicant shall be entitled to the interest @6% per annum on the arrears due from the date of this order."***

3. Counsel for the applicant of OA 1384/2109 whose vakalatnama is placed on the record of the OA 1384/2019 submits that he does not oppose the prayer made in RA 16/2024.

It is only in view of the said submission made by the counsel for the applicant of the OA 1384/2019 to the effect that there is no opposition to the prayer made by the respondents seeking the confinement of the grant of the Invalid Pension to the applicant from a period of three years prior to the institution of the OA 1384/2019 that the said prayer made by the respondents as the applicants of RA 16/2024 is allowed with it being expressly observed to the effect that the grant of this prayer is not on the basis of the review of the order of which review is sought and shall not be treated under any circumstances as a precedent in the matter in view of the specific observations in para-20 of the order dated 06.12.2023 in OA 1384/2019.

4. The RA 16/2024 is thus disposed of accordingly.

MA 1603/2024

The applicant vide this application seeks the following prayers:-

> *a) Review the judgment dated 06.12.2023 passed by this Hon'ble Tribunal in OA 1384/2019.*
> *b) Direct the respondents to grant family pension to the applicant after demise of her husband in addition to Invalid Pension already granted to the husband of the applicant vide judgment 06.02.2023.*
> *c) Pass any other further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."*

Vide order dated 13.03.2024 it was directed that the RA 7/2024 that was filed by applicant be treated as MA.

2. The prayers made in the OA1384/2019 were to the effect:-

> *"(a) Quash the Impugned Orders No. Air HQ/ 99798/266428/ 32333HD/FP/DAV dated 12.04.2019.*

*(b) Direct the respondents togrant disability pension to the husband of tthe applicant duly rounded off to 50% w.e.f his date of discharge till his death and direct the respondents to grant family pension to the applicant thereafter."*

In view of the said submissions made 10.10.2023 on behalf of the applicant as rendered in order dated 10.10.2023 in OA 1384/2019 which reads to the effect:-

*"The matter was reserved or orders vide order dated 07.07.2023. In view of the prayer clauses in the alternative on the record, the matter has been taken up for directions today. Learned counsel for the applicant in reply to a specific court query submits that the prayer made through the present OA is confined to seeking the grant to Invalid Pension. Copy of the order dated 07.07.2023 is also not on the record of Part-B. The Registry is directed to ensure that the same is placed on the record.*

*Reserved."*

that the order dated 06.12.2023 in OA 1384/2019 was pronounced with observations in paragraphs 21 & 22 thereof to the effect:-

*"21.Thus the prayer made by the applicant seeking the grant of the arrears of the invalid pension from the date of the applicant's late husband invalidment till the date of his demise on 09.02.2019 is allowed.*

*22. The respondents are directed to calculate, sanction and issue the necessary Corrigendum PPO to the applicant within three months from the date of receipt of the copy of this order and in the event of default, the applicant shall be entitled to the interest @6% per annum on the arrears due from the date of this order."*

3. In view of the factum that the applicant is undoubtedly entitled to the grant of Ordinary Family Pension from the date on the next date after the demise of her husband on 09.02.2019, she is held entitled to the same and the respondents are directed to calculate sanction and issue the necessary corrigendum PPO to

the applicant within three months from the date of receipt of the copy of the order qua the grant of family pension and in the event of default, the applicant shall be entitled to the interest @ 6% per annum on the arrears due from the date of the order.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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